

West Waukesha Bypass call notes – 11/5/15

Attendees from:

County

WDNR

ACE

EPA

WisDOT

FHWA

Issues discussed:

- 1) Ownership of country club
- 2) Fen in watershed as mitigation option
- 3) Conservation easement for Buzz Hardy's woodland
- 4) Refinement to Pebble Creek Alignment

- 1) Manager of country club purchased the property a few years ago, invested in the club, and has no intention of selling.
- 2) Possible mitigation fens in the watershed – Yatzeks fen and Meyer sedge fen in Town of Eagle (~3.5 acres); SEWRPC cannot get out to site this year for investigation (SE corner of Section 25, next to Highway O) but not much vehicular access to the fen; will send aerials of fen to Sue and Marie during first half of November.
County and DOT have elected to postpone project for one year. Therefore, construction start date planned for 2017 because they don't believe they can get necessary documents to move before 2017.
- 3) Buzz and conservation easement: County still talking with Buzz. In light of delay to project, may change approach slightly. Had basis of agreement with Buzz; County appraised land. Buzz has option to hire his own appraiser, followed by Buzz and County negotiating the price. On 11/5/15, County informed Buzz that time is not an issue and he can get an appraisal.
- 4) Refinement and realignment – County met with engineer to tweak road alignment and avoid impacts to wetland 8 (fen) and maintain 0.5 acre of interior forest habitat. Found that rotating alignment about 10 degrees could avoid fen and maintain setbacks to maintain wooded habitat. However, shifting the alignment caused the intersection with Sunset to become 'substandard' and, therefore, realigned Sunset to the north. Good news: eliminated impacts to the fen and moved Sunset intersection further away from the fen (~100 feet). Moves impacts to wetland 11 but saves impacts to wetland 9. No indirect effects to the fen are expected (e.g., runoff and salt spray) because the road will be below the level of fen. Sue stated that she will need to review cut and whether cut will affect groundwater to fen. Gary indicated that cross section and 3-D models looked at keeping roadway above groundwater. Will supply groundwater info. to Sue to review. Marie: therefore, sounds like no indirect impacts.

How would refinement affect the EIS? Need to determine if FHWA will approve realignment. If yes, re-evaluation of EIS needed because impacts would be reduced. Not known if hearing would be needed.

County indicated they would like to split permitting because they have no idea how long it will take to push the realignment changes through the system and they would like to move on the northern

part of the project. ACE indicated FHWA/DOT would need to send a revision to the permit application explaining how the two halves of the project have independent utility. ACE indicated they do not need to have the EIS re-evaluation question solved before permit app can be reviewed by ACE.

If avoiding fen, what happens to three concurrence points?

Voluntary mitigation – Problem of where to plant contiguously. Move roadway to the north, grade roadway to the north of Sunset, and could plant trees in the graded area to buffer the fen. ACE: sounds good. WDNR: sounds good; discussed stub of access road needed for Buzz's property. WisDOT: Central office perspective is that we understand this is a special mitigation that was agreed to and WisDOT will not change its stance concerning voluntary tree mitigation. However, planting must be related to project impacts and must occur in the project area, not a different county. EPA indicated it would like WDNR to provide a list of native species list and possible planting sites so that planting is most beneficial to resources. DNR, County, and DOT will develop plan of where trees could be planted and meet in one-two months' time to start discussion and report to larger group.

Conservation easement for Buzz's property - EPA strongly suggests to continued discussions with Buzz to secure a CE. Gary: has had difficulty working with Buzz, but don't want project held up if you can't get CE. Jay: willing to go to extraordinary measures, but now those extraordinary measures are not part of the project. You need to think about what is realistic v. required. EPA: asked for CE because you would impact the fen, so if you will not impact the fen it is not a deal breaker. County indicated it will continue to pursue to issue with Buzz.

However, ACE indicated that the realignment proposal has more impacts than far west alternative. PCWest concurrence was based on upland destruction as a significant impact. EPA: least impact to both resources was Far West Alternative (that impacted both resources), therefore, pursuing realignment needs to include protection of upland that was as important as fen. Far West has less wetland impact than Pebble Creek rotated alternative; therefore, Hardy woods still needs to be protected to reach LEDPA. Is it a deal breaker from 404 permitting perspective since using bank? It has to do with LEDPA because rotated realignment will impact more wetlands (in total), so the woodlands need to be protected. ACE: to get to rotated alternative as LEDPA, upland wooded area from Buzz would need protection. Buzz's property is back to deal breaker to get to LEDPA.

County wants a plan to get to the endpoint, so what might happen if Buzz does not agree with CE? If an agreement cannot be reached with Buzz, the County might be forced to go through woods and condemn.

Next steps?

- ✓ County will send aerials of Meyer fen to Sue and Marie during early November.
- ✓ County will send Sue groundwater cross section and 3-D models during early November.
- ✓ DNR, County, and DOT will develop tree species and location plan during last two months of 2015.

- ✓ County will begin process of EIS re-evaluation of EIS. WisDOT will need to update coordination plan, complete re-eval form, and ensure that, before a public meeting/hearing is set, coordination with agencies is finished.

- ✓ Buzz has a month to get an appraisal; County doesn't think resolution with Buzz will occur during 2015.
- ✓ Gary: get agencies together in early December.
- ✓ ACE inquired whether the permit app would be resubmitted after agency coordination. County wants to submit two permit apps. ACE indicated that public notice went out with information pertaining to 'old' alternative that impacted the fen and comments received were based on that alternative; re-alignment would produce different set of comments. Segmentation question will depend on updated permit app and determination if the two projects have independent utility and whether public notice can be updated for just the south end.